

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION**

John Ryan Tate Wilson,)	Civil Action No. 2:19-1208-RMG
)	
Plaintiff,)	
)	
v.)	ORDER AND OPINION
)	
Spartanburg County Regional Hospital)	
and Spartanburg County Jail,)	
)	
Defendants.)	
_____)	

Before the Court is the Report and Recommendation (“R & R”) of the Magistrate Judge (Dkt. No. 11) recommending that Plaintiff’s claim be dismissed without prejudice. For the reasons set forth below, the Court adopts the R & R as the Order of the Court and dismisses Plaintiff’s claim without prejudice.

I. Background

Plaintiff John Ryan Tate Wilson is an incarcerated person proceeding *pro se* to bring a claim under 18 U.S.C. § 1983 alleging discrimination, cruel and unusual punishment, malpractice, depreciation of character, and false imprisonment. (Dkt. No. 1 at 2, 4-6.) According an appropriately liberal construction to this *pro se* litigant’s pleading, Plaintiff contends that on May 18, 2018 he was at the Spartanburg County Regional Hospital for treatment of an overdose when the staff administered an injection that caused him to black out. Wilson asserts that he was later told that he tackled a security guard while blacked out, for which he was then arrested and charged with assault and battery and threatening a public official, although there were no videos or witnesses. Wilson alleges that he has been treated cruelly by hospital staff. (*Id.* at 4-6.)

II. Legal Standard

The Magistrate Judge makes a recommendation to the Court that has no presumptive weight and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). Where there are no objections to the R & R, the Court reviews the R & R to “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed. R. Civ. P. 72 advisory committee’s note; *see also Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983) (“In the absence of objection . . . we do not believe that it requires any explanation.”).

III. Discussion

The Court finds that the Magistrate Judge addressed the issues and correctly concluded that this case may be dismissed pursuant to Rule 41. Plaintiff filed no objections to the R & R.

The Magistrate Judge issued a Proper Form Order that Plaintiff furnish documents necessary to allow issuance and service of process, and the Clerk of Court provided Plaintiff with these forms. (Dkt. No. 6.) Plaintiff responded by letter that he was seeking assistance of counsel. (Dkt. No. 10.) Plaintiff has not provided the required documents by the deadline of May 27, 2019, nor has any counsel noticed an appearance on his behalf.


Plaintiff’s lack of response indicates his intent not to continue prosecuting his claim. Such failure to prosecute and to respond to a Court Order subjects the case to *sua sponte* dismissal. Fed. R. Civ. P. 41(b) (“If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it.”); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31 (1962) (“The authority of a court to dismiss *sua sponte* for lack of prosecution has generally been considered an ‘inherent power,’ governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs so as to

achieve the orderly and expeditious disposition of cases.”); *Ballard v. Carlson*, 882 F.2d 93, 95-96 (4th Cir. 1989) (district court’s dismissal following failure to respond to a specific directive is not abuse of discretion). Last, as the Magistrate Judge discusses, Plaintiff’s complaint is also subject to dismissal for failing to state a claim on which relief can be granted against either Defendant.

IV. Conclusion

For the foregoing reasons, the Court **ADOPTS** the R & R (Dkt. No. 11) as the Order of the Court and **DISMISSES WITHOUT PREJUDICE** Plaintiff’s complaint without issuance or service of process.

AND IT IS SO ORDERED.



Richard Mark Gergel
United States District Court Judge

June 26, 2019
Charleston, South Carolina